

REMARKS/ARGUMENTS

Claims 24, 25, and 28 are pending. Applicants gratefully acknowledge the withdrawal of all prior rejections. All claims are now rejected as being either anticipated by U.S. Patent No. 5,267,862 to Parker or obvious over the combination of Parker and U.S. Patent No. 5,645,420 to Bergersen. Such rejections are respectfully traversed.

Claim 24, the only independent claim remaining, reads as follows:

*"24. A removable elastic positioning appliance comprising:
a shell having a hollow cavity shaped to receive and reposition teeth from
a first orientation to a successive orientation, the shell having at least one
protrusion disposed along an edge of the hollow cavity, which protrusion contacts
at least one received tooth to assist in holding the appliance in position, wherein
the at least one protrusion comprises a continuous protrusion disposed along
said edge which is configured to contact one or more teeth along the gingival
margin and interdental areas."*

As is well known to the Examiner, anticipation requires that each and every claim limitation be met by a single cited document. In the present case, the Parker '862 patent fails to anticipate independent claim 24 in at least two respects. First, there is no teaching in Parker that the projection 60 be formed as "continuous protrusion disposed along" the edge of the hollow cavity. Indeed, the nature of protrusions 60 and 62 is nowhere set forth in the Parker '862 patent.

Second, the projection 60 in the Parker '862 patent clearly engages the tooth well away from the gingival margin and interdental areas. As can be seen by comparing Fig. 10 in Parker '862 with Fig. 15B in the present application, the point of engagement of Parker is spaced well away from the gingival margin and interdental area. It is noted that the gingival margin is identified with reference number 79 in Fig. 15B.

The Examiner asserts that "It is the grooves in the cast that are used to make the protrusions, the grooves being the length at least two posterior teeth." Applicants respectfully disagree with such assertion.

The Examiner is presumably relying on the disclosure in Col. 7 from line 6 through line 15, which refers to Fig. 5. There, it is shown that a tool may be used to cut a groove

46 in the casting which is later used to mold the dental appliance. Contrary to the Examiner's assertion, there appear to be at most two grooves in molars which are spaced apart with the molar having no groove cut therein. Moreover, it is by no means clear from the specification that it is these grooves which form the projection 16 which is later described. Assuming, for the sake of argument only, that the grooves 46 are indeed used to mold the projection 60 as shown in Fig. 10, there is still no teaching of a continuous protrusion disposed along the edge of the hollow cavity. Moreover, the positioning of the grooves in Fig. 5 further illustrates why any resulting projection would be spaced well away from the gingival margin as the groove is being formed halfway up the tooth surface.

For these reasons, Applicants believe that independent claim 24, as well as claims 25 and 28 dependent thereon, are clearly distinguishable over the teachings of Parker '862, even when combined with Bergersen '420. Thus, it is respectfully requested that the claims be allowed and that the case be passed to issue at an early date.

If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,

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